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09/943,905	08/31/2001	Simon McGuire	74577-014	2082
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PROSKAUER ROSE LLP			GRAHAM, CLEMENT B	
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1585 BROADWAY			ART UNIT	PAPER NUMBER
NEW YORK, NY 10036-8299			3696	
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			10/05/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/943,905	MCGUIRE, SIMON
	<b>Examiner</b>	<b>Art Unit</b>
	Clement B. Graham	3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 June 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Claims 1-21, remained pending.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21, are rejected under 35 U.S.C. 102(e) as being anticipated by Billingsley U.S Patent 7, 567, 909).

As per claims 1, Billingsley discloses a computer system for exchanging a financial note for a quantity of an a financial item comprising:

a calculating unit for calculating value of the note based upon a level of an index representative of a first set of one or more financial items, the value of the note being expressed in a currency (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) and a transaction unit for delivering a quantity of a second, different set of one or more financial items to the investor in exchange for the financial note in the quantity being based upon a ratio of the calculated value of the note and price of the one or more financial items in the second set (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 2, Billingsley discloses further comprising an index interface for receiving the level of the benchmark index (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 3, Billingsley discloses further comprising, a price interface for receiving the price of the one or more exchange traded item financial items in the second set delivered to the investor (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67).

As per claims 4, Billingsley discloses wherein the calculating unit calculates the ratio (r) according to the equation  $r=I/(x_0 S)$ , wherein I is the level of the benchmark index, x is a discount factor and S is the price of the one or more exchange traded item financial items in the second set (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 5, Billingsley discloses further comprising an averaging unit for averaging the ratio (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 6, Billingsley discloses further comprising a first timing unit in communication with the averaging unit, the first timing unit controlling the averaging unit such that the ratio is averaged over a predetermined period of time (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 7, Billingsley discloses further comprising an input terminal allowing to input an exchange request (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67).

As per claims 8, Billingsley discloses further comprising a selection unit for automatically selecting the one or more exchange traded item financial items in the second set for delivery to the investor from a portfolio of a plurality of financial items available to the issuer of the financial note (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and

column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 9, Billingsley discloses further comprising an output unit for notifying the investor of the selected one or more exchange traded item financial items in the second set for delivery to the investor (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 10, Billingsley discloses further comprising a second timing unit in communication with the transaction unit, the second timing unit controlling the transaction unit such that the at-4e~ one or more exchange traded item financial items in the second set is automatically delivered a predetermined period of time after receipt of an exchange request, after maturity of the financial note or after notification of the investor of the one or more exchange traded item financial items in the second set selected for delivery (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 11, Billingsley discloses further comprising a coupon database for storing data relating to at least one coupon date and a monitoring unit for monitoring the at least one coupon date and is for delivering a coupon to investor at each coupon date (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 12, Billingsley discloses an automated method for exchanging a financial note for a quantity of an a financial item, comprising:  
calculating of a value of the note based upon a level an index representative of a first set of one or more financial items, the value of the note being expressed in a currency relative to a price of an exchange traded item; and delivering a quantity of the a second(see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) different set of one or more exchange traded item financial items to the investor in

exchange for the financial note the quantity being based upon a ratio of the calculated value of the note and price of the one or more financial items in the second set (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67).

As per claims 13, Billingsley discloses further comprising calculating the ratio (r) according to the equation  $r=I/(x \cdot S)$ , wherein I is the level of the index, x is a discount factor and S is the price of the one or more exchange traded item financial items in the second set (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 14, Billingsley discloses further comprising averaging the ratio over a predetermined period of time and delivering the quantity of the one or more exchange traded item financial items in the second set in accordance with the averaged ratio (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 15, Billingsley discloses further comprising automatically selecting the one or more exchange traded item financial items in the second set for delivery to the investor from a portfolio of a plurality of financial items available to the issuer of the financial note (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 16, Billingsley discloses further comprising automatically selecting the one or more exchange traded item financial items in the second set for delivery to the investor at a time in close proximity with an exchange request or with maturity of the financial note (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 17, Billingsley discloses further comprising automatically notifying the investor of the selected one or more exchange traded item financial items in the second set of the issuer's portfolio to be delivered (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 18, Billingsley discloses further comprising automatically delivering the quantity of the one or more exchange traded item financial items in the second set a predetermined period of time after receipt of an exchange request, after maturity of the financial note or after notification of the investor of the one or more exchange traded item financial items in the second set selected for delivery (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 19, Billingsley discloses further comprising defining at least one coupon date, storing the at least one coupon date, automatically monitoring the at least one coupon date and delivering a coupon to investor at each coupon date (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 20, Billingsley discloses when the program is executed on a computer (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

As per claims 21, Billingsley discloses stored on a computer-readable recording medium (see column 3 lines 38-67 and column 5 lines 53-67 and column 6 lines 1-6 and column 14 lines 47-61 and column 15 lines 31-52 and column 18 lines 58-67 and column 19 lines 1-6 and column 24 lines 34-67 and column 25 lines 8-67) .

**Conclusion**  
**RESPONSE TO ARGUMENTS**

4. In response to Applicant's arguments filed 6/9/09 has been fully considered but there are moot in view of new grounds of rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thom Dixon can be reached on (571) 272-6803803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/  
Primary Examiner, Art Unit 3696

CG

September 29, 2009